

In the United States Court of Federal Claims

No. 17-449

Filed: April 10, 2017 at 17:25 (E.S.T.)

CONTINENTAL SERVICES
GROUP, INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

*

*

*

*

*

*

*

*

*

*

*

*

*

Extension Of Temporary Restraining Order,
RCFC 65(b)(2).

EXTENSION OF TEMPORARY RESTRAINING ORDER

On March 29, 2017, the court issued a Memorandum Opinion And Temporary Restraining Order (“TRO”), to prohibit, pursuant to Rule of the United States Court of Federal Claims (“RCFC”) 65(d), the United States of America, the United States Department of Education (“ED”), and their officers, agents, servants, employees, and representatives from:

- (1) authorizing the purported awardees to perform on the contract award under Solicitation No. ED-FSA-16-R-0009 for a period of fourteen days, *i.e.* until April 12, 2017; and
- (2) transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest for a period of fourteen days, *i.e.* until April 12, 2017.

ECF No. 9 at 3.

On April 4, 2017, the Government filed a Motion To Amend The Court’s March 29, 2017 TRO, requesting the court “to rescind the court’s second prohibition on the ED’s assigning of debt collection accounts to other, non-contested, existing contracts that are in place for those services.” ECF No. 34 at 2. The Government argued that the provision of the March 29, 2017 TRO, enjoining the ED from “transferring work to be performed under the contract at issue in this case to other contracting vehicles to circumvent or moot this bid protest” addressed a Contract Disputes Act (“CDA”) claim that the court did not have jurisdiction to adjudicate, under its bid protest jurisdiction and that “a stay of work under a contested contract should not preclude the Government from obtaining necessary services under other lawful, existing contracts.” ECF No. 34 at 2.

On April 9, 2017, Continental Services Group, Inc. (“Plaintiff”) filed an Opposition To The Government’s April 4, 2017 Motion, arguing that the amount of work “destined for the contract awarded under Solicitation No. ED-FSA-16-R-0009, . . . will be diluted[,]” if the court rescinds the provision of the March 29, 2017 TRO, enjoining the ED from transferring work to other contracting vehicles. ECF No. 47.

On April 10, 2017, the court convened a Status Conference to address the Government’s April 4, 2017 Motion To Amend, during which the parties attempted to explain the complex history of Solicitation No. ED-FSA-16-R-0009, that originally included over forty bidders and was challenged by twenty-one disappointed offerors before the Government Accountability Office (“GAO”). The Government was unable to identify for the court who the parties were before the GAO, what the GAO ruled in each case and the impact of the GAO rulings on this case and two other related cases pending before the court—*Coast Professional, Inc. v. Unites States*, No. 15-207 and *Account Control Technology, Inc. v. United States*, No. 17-493. Instead, the Government insisted that the court should amend the March 29, 2017 TRO to allow the ED to assign defaulted student loan accounts to eleven small businesses that were awarded contracts for student loan collection services in 2014, under a small business set-aside solicitation. Again, the Government was unable to identify the eleven small-business contractors or whether the ED was transferring work subject to Solicitation No. ED-FSA-16-R-0009 to circumvent or moot this bid protest.

Therefore, the court determined that it required additional briefing from the parties summarizing the complex history of this bid protest, and explaining the relationship, if any, to the eleven contracts for student loan collection services that ED awarded under a small business set-aside solicitation in 2014.

For these reasons, the Government’s April 4, 2017 Motion To Amend is denied and the March 29, 2017 TRO is extended until April 24, 2017, pursuant to RCFC 65(b)(2).

IT IS SO ORDERED.

s/Susan G. Braden
SUSAN G. BRADEN
Chief Judge